

JUDGE HOWARD

NOURSE & BOWLES, LLP  
Attorneys for Plaintiff  
EMERALDIAN LIMITED PARTNERSHIP  
One Exchange Plaza  
At 55 Broadway  
New York, NY 10006-3030  
(212) 952-6200

**08 CV - 2991**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

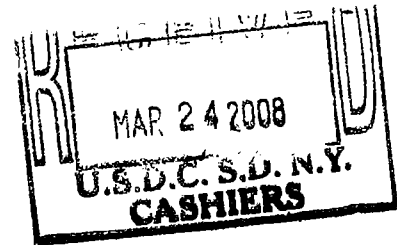
-----X  
EMERALDIAN LIMITED PARTNERSHIP,

Plaintiff,

- against -

WELLMIX SHIPPING LIMITED,

Defendant.  
-----X



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: 08 Civ. ( )  
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**VERIFIED COMPLAINT**

Plaintiff, Emeraldian Limited Partnership ("Plaintiff"), by its attorneys, Nourse & Bowles, LLP, complaining of the above-named defendant, Wellmix Shipping Limited ("Defendant"), alleges on information and belief as follows:

1. This is a case of admiralty and maritime jurisdiction, as hereinafter more fully appears, and is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. The Court has admiralty jurisdiction under 28 U.S.C. § 1333.

2. At all material times, Plaintiff was and now is a partnership or other business entity organized and existing under the laws of Liberia with an office and

place of business c/o Zodiac Maritime Agencies Ltd., 13<sup>th</sup> Floor, Sea Containers House, 20 Upper Ground, London SE1 9PD, United Kingdom.

3. At all material times, Defendant was and now is a corporation or other business entity organized and existing under the laws of a foreign country with an office and place of business at 23 Connaught Road, Hong Kong.

4. Pursuant to a contract of voyage charter party dated December 3, 2007, Plaintiff, as disponent owner, chartered the vessel M/V VINE (the "Vessel") to Defendant, as charterer, for a voyage from Itaguai, Brazil to Shekou, P.R.C. The charter provides for resolution of disputes between the parties in the High Court of London with English law to apply.

5. On or about January 8, 2008, the Vessel arrived at Itaguai, Brazil, the port of loading. Under the charter, Defendant was given a certain amount of allowed laytime at the port of loading for the Vessel's call at that port with allowed laytime to be counted in accordance with the terms of the charter. The Vessel was delayed for an extended period at Itaguai, however, and allowed laytime was exceeded and demurrage became due from Defendant to Plaintiff. More specifically, Plaintiff claimed a total of \$5,652,976.41 in demurrage whereas Defendant has conceded and paid \$559,961.11 in demurrage. As a result of the foregoing, demurrage remains due from Defendant to Plaintiff in the amount of \$5,093,015.30, no part of which has been paid although duly demanded, together

with interest and costs. Attached as Exhibit "A" is a copy of Plaintiff's demurrage invoice in the original amount of \$5,652,976.41.

6. By reason of the foregoing premises, Defendant has therefore breached its contract with Plaintiff and currently owes to Plaintiff the principal amount of \$5,093,015.30 together with interest and costs.

7. Costs, including solicitor's fees are routinely awarded to the successful party in London and Plaintiff claims the total of \$1,000,000 representing a reasonable estimate of the likely solicitor's counsel's fees and costs based on current exchange rates to present and determine Plaintiff's claim in London.

8. Interest is also routinely awarded to the prevailing party in London and Plaintiff estimates interest of about \$1,500,000 on the principal amount of its claims based on compound interest at the rate of 8.5% calculated quarterly, as is the custom in London, for a period of 3 years, the said period of time being a reasonable estimate for resolution of the claims in London.

9. By reason of the foregoing premises, Plaintiff claims the total sum of \$7,593,015.30 against Defendant, as best as can presently be calculated.

10. Defendant cannot be found within the district within the meaning of Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, but Defendant is believed to have or will have during the pendency of this action, assets within this district consisting of

cash, funds, freight, hire or credits including but not limited to electronic fund transfers in the hands of garnishees in this District.

WHEREFORE, Plaintiff prays:

A. That process in due form of law issue against the Defendant, citing it to appear and answer under oath all and singular the matters alleged in the Complaint;

B. That, since Defendant cannot be found within this District pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, this Court issue an order directing the Clerk of the Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, attaching all of Defendant's tangible or intangible property owing or otherwise the property of the Defendant up to the amount of \$7,593,015.30 to secure Plaintiff's claims, and that all persons claiming any interest in the same be cited to appear and, pursuant to Supplemental Admiralty Rule B, answer the matters alleged in the Complaint.

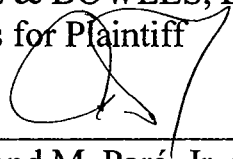
C. That such property attached pursuant the Process of Maritime Attachment and Garnishment remain sequestered to serve as security for the payment of Plaintiff's claims; and

D. That, following the attachment of sufficient funds to secure Plaintiff as prayed herein, that action be stayed pending resolution of the merits of the claim in London in accordance with the governing contract.

E. That Plaintiff have such other, further and different relief as may be just and proper.

Dated: New York, New York  
March 24, 2008

NOURSE & BOWLES, LLP  
Attorneys for Plaintiff

By:   
Armand M. Paré, Jr. (AP-8575)  
One Exchange Plaza, At 55 Broadway  
New York, NY 10006-3030  
(212) 952-6200

STATE OF NEW YORK       )  
  ) ss:  
COUNTY OF NEW YORK    )

ARMAND M. PARÉ, JR., being duly sworn, deposes and says:

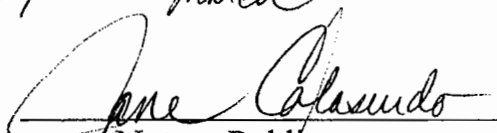
I am a member of the firm of Nourse & Bowles, LLP, attorneys for plaintiff herein and I have read the foregoing Verified Complaint and know the contents thereof and that the same are true to my own knowledge, except as to the matters herein stated to be alleged on information and belief, and as to those matters I believe them to be true.

The source of my information is documents, records and other information submitted to me on behalf of the plaintiff.

This verification is made by me because plaintiff is a foreign corporation.



Sworn to before me this  
24<sup>th</sup> day of March, 2008

  
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Notary Public  
JANE COLASURDO  
Notary Public, State Of New York  
No. 314786002  
Qualified In New York County  
Commission Expires April 30, 2011

HULLMAN FENWICK WILLAN Fax:02074810316

12 Mar 2008 15:06 P.02



Zodiac Maritime Agencies Ltd.

Lynton House, 7/12 Tavistock Square  
London WC1H 9TPTelephone 44-2073332222  
Facsimile 44-2073332233  
Email operations@zodiac-maritime.co

Date 18/02/2008

Reference Wellmix  
Vessel Vine  
Voyage No. 67  
T/C No. W2201  
C/P Dated 03/12/2007

To: Wellmix Shipping Ltd.

Invoice	US\$	US\$
Load Port Demurrage		
36 Days 16hrs 59min @ Usd 160,000.00 pd		5,873,222.24
Less 3.75% Address commission	220,245.83	
<b>DEMURRAGE PAYABLE LATEST 15/03/08 ON PASSING SINGAPORE.</b>		
<b>Amount Due</b>		<b>5,652,976.41</b>

## PLEASE NOTE BANKING DETAILS

TO: CHASE NEW YORK  
SWIFT CODE: CHASUS33  
ACCOUNT NUMBER: 400307041FOR THE ACCOUNT OF: NORDEA BANK, LONDON  
8th FLOOR, CITY PLACE HOUSE,  
55 BASINGHALL STREET,  
LONDON EC2V 5NBSWIFT CODE: NDEAGB21  
US DOLLAR ACCOUNT NO: 54111122  
IBAN NO: GB 92NDEA40487854111122ATTENTION: PAYMENT PROCESSING  
FOR THE ACCOUNT OF: ZODIAC MARITIME AGENCIES  
LIMITED POOL ACCOUNT

A



FENWICK WILLAN Fax:02074810316

## Laytime Calculation

Vessel Name	: Vine	Ref.	: W2201
Owner	: Emeraldjan Limited Partne	Ref. Date	: 18 Feb 08
Charterer	: Wellmix	C/P. Date	: 03 Dec 07
Cargo Name	: Iron ore	B/L. Date	:

## Terms Loading.

50,000 m.t.p.d. Shinc. US\$160,000/80,000 p.d. Cargo 121,003. Laytime saved.

Port	Arrived	N.O.R.	Commenced	Completed	Sailed
Itagau	08 Jan 08 00:38	08 Jan 08 00:38	08 Jan 08 06:38	16 Feb 08 14:05	16 Feb 08 14:05

Ports & Totals	Time Used	Time Alwd	Demurrage
Itagau	39 03 04		
Total Loading	39 03 04	02 10 05	36 16 59

Demurrage at Load	36.707639 days @ US\$ 160,000.00 = US\$ 5,873,222.24
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Loading at Itagau Basis Shinc.						
Date	Day	Time	Event	Counts	Laytime	Demurrage
08 Jan 08	Tue	00:38	Notice of readiness.	No		
09 Jan 08	Wed	06:38	Time starts to count.	Yes	00 17 22	
10 Jan 08	Thu				01 00 00	
11 Jan 08	Fri				00 16 43	00 07 17
12 Jan 08	Sat	06:36	Anchor aweigh	No		01 00 00
13 Jan 08	Sun	08:20	Anchored inner anchorage	Yes		00 06 36
14 Jan 08	Mon					00 15 40
15 Jan 08	Tue					01 00 00
16 Jan 08	Wed					01 00 00
17 Jan 08	Thu					01 00 00
18 Jan 08	Fri					01 00 00
19 Jan 08	Sat					01 00 00
20 Jan 08	Sun					01 00 00
21 Jan 08	Mon					01 00 00
22 Jan 08	Tue					01 00 00
23 Jan 08	Wed					01 00 00
24 Jan 08	Thu					01 00 00
25 Jan 08	Fri					01 00 00
26 Jan 08	Sat					01 00 00
27 Jan 08	Sun					01 00 00
28 Jan 08	Mon					01 00 00
29 Jan 08	Tue					01 00 00
30 Jan 08	Wed					01 00 00
31 Jan 08	Thu					01 00 00
01 Feb 08	Fri					01 00 00
02 Feb 08	Sat					01 00 00
03 Feb 08	Sun					01 00 00
04 Feb 08	Mon					01 00 00
05 Feb 08	Tue					01 00 00
06 Feb 08	Wed					01 00 00
07 Feb 08	Thu					01 00 00
08 Feb 08	Fri					01 00 00
09 Feb 08	Sat					01 00 00
10 Feb 08	Sun					01 00 00
11 Feb 08	Mon					01 00 00
12 Feb 08	Tue					01 00 00
13 Feb 08	Wed					01 00 00
14 Feb 08	Thu					01 00 00
15 Feb 08	Fri	13:11	Anchor aweigh	No		01 00 00
		15:50	All fast	Yes		00 13 11
16 Feb 08	Sat	13:55	Complete loading	Yes		00 08 10
		14:05	Vessel completed.			00 13 55
						00 00 10
Total					02 10 05	36 16 59